

**§ 966.5 Effect of petition filing.**

Upon receipt and docketing of the former employee's petition, the Recorder will notify the General Counsel that the petition has been filed and that a timely filed petition stays further collection action.

**§ 966.6 Filing, docketing and serving documents; computation of time; representation of parties.**

(a) *Filing.* All documents required under this part must be filed by the former employee or the General Counsel in triplicate with the Recorder. (Normal Recorder office business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time as appropriate during the year.) The Recorder will transmit a copy of each document filed to the other party, and the original to the Hearing Official.

(b) *Docketing.* The Recorder will maintain a docket record of proceedings under this part and will assign each petition a docket number. After notification of the docket number, the former employee and General Counsel should refer to it on any further filings regarding the petition.

(c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

(d) *Representation of parties.* After the filing of the petition, further document transmittals for, or communications with, the Postal Service shall be through its representative, the General Counsel. If a former employee is represented by an attorney authorized to practice law in any of the United States or the District of Columbia or a territory of the United States, further transmissions of documents and other communications with the former employee shall be made through his or her attorney rather than directly with the former employee.

**§ 966.7 Answer to petition.**

Within thirty (30) days after the date of receipt of the petition, the General Counsel shall file an answer to the pe-

tition, and attach all available relevant records and documents in support of the Postal Service's claim, or the administrative offset schedule proposed by the Postal Service for collecting any such claim; a statement of whether the Postal Service concurs in, or objects to, an oral hearing, if the former employee requests one, with the reason(s) for the Postal Service's objection; a list of witnesses the Postal Service intends to call if an oral hearing is requested and the request is granted; a synopsis of the testimony of each witness; a statement of concurrence or objection to the proposed location and dates for the oral hearing; and a statement of the basis for the determination of debt or offset schedule if not contained in the relevant records or documents. If the former employee files a supplement to the petition, the General Counsel may file any supplemental answer and records to support the position of the Postal Service within twenty (20) calendar days from the date of receipt of the supplement filed with the Recorder.

**§ 966.8 Authority and responsibilities of Hearing Official or Judicial Officer.**

(a) In processing a case under this part, the Hearing Official's authority includes, but is not limited to, the following:

- (1) Ruling on all offers, motions, or requests by the parties;
- (2) Issuing any notices, orders, or memoranda to the parties concerning the hearing procedures;
- (3) Conducting telephone conferences with the parties to expedite the proceedings (a memorandum of a telephone conference will be transmitted to both parties);
- (4) Determining if an oral hearing is necessary, the type of oral hearing that would be appropriate, and setting the place, date, and time for such hearing;
- (5) Administering oaths or affirmations to witnesses;
- (6) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable, and probative evidence is elicited on the issues in dispute, and that irrelevant, immaterial, or repetitious evidence is excluded;

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(7) Establishing the record in the case;

(8) Issuing an initial decision or one on remand; and

(9) Granting, at the request of either party, reasonable time extensions.

(b) The Judicial Officer, in addition to possessing such authority as is described elsewhere in this part, shall possess all of the authority and responsibilities of a Hearing Official.

### § 966.9 Opportunity for oral hearing.

An oral hearing generally will be held only in those cases which, in the opinion of the Hearing Official, cannot be resolved by a review of the documentary evidence, such as when the existence, or amount, of a debt turns on issues of credibility or veracity. An oral hearing includes an in-person hearing, a telephonic hearing, or a hearing by video conference. When the Hearing Official determines that an oral hearing is not necessary, the decision shall be based solely on written submissions.

### § 966.10 Initial decision.

(a) After the receipt of written submissions or after the conclusion of the hearing and the receipt of any post-hearing briefs, the Hearing Official shall issue a written initial decision, including findings of fact and conclusions of law, which the Hearing Official relied upon in determining whether the former employee is indebted to the Postal Service, or in upholding or revising the administrative offset schedule proposed by the Postal Service for collecting a former employee's debt. When the Judicial Officer presides at a hearing he or she shall issue a final or a tentative decision.

(b) The Hearing Official shall promptly send to each party a copy of the initial or tentative decision, and a statement describing the right of appeal to the Judicial Officer in accordance with § 966.11.

### § 966.11 Appeal.

The initial or tentative decision will become final and an order to that effect will be issued by the Judicial Officer thirty (30) days after issuance and receipt by the parties of the initial or tentative decision unless the Judicial Officer, in his discretion, grants review upon appeal by either party, or on his own motion. If an appeal is denied, the initial or tentative decision becomes the final agency decision upon the issuance of such denial. The Judicial Officer's decision on appeal is the final agency decision with no further right of appeal within the agency.

### § 966.12 Waiver of rights.

The Hearing Official may determine the former employee has waived his or her right to a hearing and administrative offset may be initiated if the former employee:

(a) Files a petition for hearing after the end of the prescribed thirty (30) day period, and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay;

(b) Has received notice to appear at an oral hearing but fails to do so without showing circumstances beyond the former employee's control;

(c) Fails to file required submissions or to comply with orders of the Hearing Official; or

(d) Files a withdrawal of his or her petition for a hearing with the Recorder.

### § 966.13 Ex parte communications.

Ex parte communications between a Hearing Official or his or her staff and a party shall not be made. This prohibition does not apply to procedural matters. A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.